

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALEXANDER ALHOVSKY,

Plaintiff,

-against-

07 CV 7628 (CM)

THOMAS RYAN, NEW YORK CITY POLICE
DEPARTMENT DETECTIVES "1-5", NEW YORK
CITY POLICE DEPARTMENT OFFICERS "1-10",
JACK T. LINN, STEVE SIMON, RAY BROWN,
BARBARA BROWN, and the NEW YORK CITY
DEPARTMENT OF PARKS AND RECREATION, and
the CITY OF NEW YORK,

Defendants.
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Pursuant to Local Rule 56.1(c) of the Local Civil Rules of the United States District Court for the Southern District of New York, defendants Thomas Ryan and the City of New York, hereby set forth their response to "Plaintiff's Additional Material Facts in Opposition."¹

1. Plaintiff's paragraph "1" is not a material fact since plaintiff's absent mindedness has no bearing on why plaintiff was arrested.
2. Plaintiff's paragraph "2" is not a material fact or supported by the record.
3. Plaintiff's paragraph "3" is not a material fact since plaintiff's demeanor has no bearing on why plaintiff was arrested.
4. Plaintiff's paragraph "4" is not a material fact.

¹ Although not permitted by the Federal Rules, plaintiff has submitted his own "material facts" in his purported opposition to defendants' motion. Plaintiff, however, cites no legal authority for his inclusion of these superfluous factual allegations. Notwithstanding, defendants respond herein.

5. Plaintiff's paragraph "5" is not a material fact. In addition, plaintiff cites to Erlanger Exhibit 2 and Rivera Exhibits D & F, neither of which have the manager at Starbucks describing plaintiff as "a non-threatening person."
6. Plaintiff's paragraph "6" is not a material fact or supported by the record.
7. Plaintiff's paragraph "7" is not a material fact or supported by the record.
8. Plaintiff's paragraph "8" is not a material fact or supported by the record.
9. Plaintiff's paragraph "9" is not a material fact.
10. Paragraph "10" is not disputed.
11. Paragraph "11" is not disputed.
12. Plaintiff's paragraph "12" is not a material fact.
13. Plaintiff's paragraph "13" is not a material fact. Notwithstanding, any purported injuries alleged by plaintiff are nothing more than *de minimus* in nature.
14. Paragraph "14" is not disputed.
15. Plaintiff's paragraph "15" is not a material fact. Notwithstanding, any purported injuries alleged by plaintiff are nothing more than *de minimus* in nature.
16. Plaintiff's paragraph "16" is not a material fact.
17. Plaintiff's paragraph "17" is not a material fact.
18. Plaintiff's paragraph "18" is not a material fact.
19. Plaintiff's paragraph "19" is not a material fact.
20. Plaintiff's paragraph "20" is not a material fact.
21. Plaintiff's paragraph "21" is not a material fact.
22. Plaintiff's paragraph "22" is not a material fact.
23. Plaintiff's paragraph "23" is not a material fact.

24. Plaintiff's paragraph "24" is not a material fact.
25. Plaintiff's paragraph "25" is not a material fact.
26. Plaintiff's paragraph "26" is not a material fact.
27. Plaintiff's paragraph "27" is not a material fact or supported by the record.
28. Plaintiff's paragraph "28" is not a material fact.
29. Plaintiff's paragraph "29" is not a material fact.
30. Plaintiff's paragraph "30" is not a material fact.
31. Plaintiff's paragraph "31" is not a material fact.
32. Plaintiff's paragraph "32" is not a material fact.
33. Plaintiff's paragraph "33" is not a material fact.

Dated: New York, New York
June 18, 2008

Respectfully Submitted
MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York and
Thomas Ryan
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By: _____

Suzette Corinne Rivera (SR 4272)
Assistant Corporation Counsel